

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Respondent/Plaintiff,

v.

CV 08-0570 JC/WPL
CR 03-0847 JC

JOSE MANUEL MADRID, JR.,

Movant/Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

This matter is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition (PFRD), filed December 18, 2008. The PFRD advised the parties that objections were due within ten days of service of the PFRD and that if no objections were filed, no appellate review would be allowed. A copy of the PFRD was mailed to Jose Manuel Madrid at his address on record. On January 9, 2009, the copy of the PFRD was returned to this Court with a label stating, "Return to Sender Refused Unable to Forward." (Doc. 13.) To this date, no objections have been filed.

It appears that Madrid has been released from custody or transferred without advising the Court of his new address, as required by D.N.M.LR-Civ. 83.6, and has therefore severed contact with the Court. Petitioner's failure to comply with the Court's local rules demonstrates a manifest lack of interest in litigating his claims. *See Wardell v. Duncan*, 470 F.3d 954, 958 (10th Cir. 2006) (rejecting argument that failure to object was excusable because magistrate's recommendation was sent to a prison from which plaintiff had been transferred, because plaintiff failed to notify court of

change of address); *Theede v. U.S. Dep't of Labor*, 172 F.3d 1262, 1267 (10th Cir. 1999) (holding that *pro se* party has burden of notifying court of change of address).

IT IS THEREFORE ORDERED that:

- 1) the PFRD is adopted as an order of the Court;
- 2) Madrid's motion under 28 U.S.C. § 2255 is denied; and
- 3) cause number CV 08-0570 JC/WPL is dismissed with prejudice.

s/John Edwards Conway

JOHN EDWARDS CONWAY
SENIOR U.S. DISTRICT JUDGE